

By Senator Grant

13-158-98

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A bill to be entitled
An act relating to insurance; amending s.
627.736, F.S.; specifying the time when
personal injury protection benefits are
overdue; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 627.736, Florida
Statutes, is amended to read:

627.736 Required personal injury protection benefits;
exclusions; priority.--

(4) BENEFITS; WHEN DUE.--Benefits due from an insurer
under ss. 627.730-627.7405 shall be primary, except that
benefits received under any workers' compensation law shall be
credited against the benefits provided by subsection (1) and
shall be due and payable as loss accrues, upon receipt of
reasonable proof of such loss and the amount of expenses and
loss incurred which are covered by the policy issued under ss.
627.730-627.7405. When the Department of Health ~~and~~
~~Rehabilitative Services~~ provides, pays, or becomes liable for
medical assistance under the Medicaid program related to
injury, sickness, disease, or death arising out of the
ownership, maintenance, or use of a motor vehicle, benefits
under ss. 627.730-627.7405 shall be subject to the provisions
of the Medicaid program.

(a) An insurer may require written notice to be given
as soon as practicable after an accident involving a motor
vehicle with respect to which the policy affords the security
required by ss. 627.730-627.7405.

1 (b) Personal injury protection insurance benefits paid
2 pursuant to this section shall be overdue if not paid within
3 30 days after the insurer is furnished reasonable proof
4 ~~written notice~~ of the fact of a covered loss and of the amount
5 of same. If such reasonable proof ~~written notice~~ is not
6 furnished to the insurer as to the entire claim, any partial
7 amount supported by reasonable proof ~~written notice~~ is overdue
8 if not paid within 30 days after such reasonable proof ~~written~~
9 ~~notice~~ is furnished to the insurer. Any part or all of the
10 remainder of the claim that is subsequently supported by
11 reasonable proof ~~written notice~~ is overdue if not paid within
12 30 days after such reasonable proof ~~written notice~~ is
13 furnished to the insurer. However, ~~any~~ payment is ~~shall~~ not
14 ~~be deemed~~ overdue when the insurer has reasonable proof to
15 establish that the insurer is not responsible for the payment,
16 ~~notwithstanding that written notice has been furnished to the~~
17 ~~insurer.~~ For the purpose of calculating the extent to which
18 any benefits are overdue, payment shall be treated as being
19 made on the date a draft or other valid instrument which is
20 equivalent to payment was placed in the United States mail in
21 a properly addressed, postpaid envelope or, if not so posted,
22 on the date of delivery.

23 (c) All overdue payments shall bear simple interest at
24 the rate of 10 percent per year.

25 (d) The insurer of the owner of a motor vehicle shall
26 pay personal injury protection benefits for:

27 1. Accidental bodily injury sustained in this state by
28 the owner while occupying a motor vehicle, or while not an
29 occupant of a self-propelled vehicle if the injury is caused
30 by physical contact with a motor vehicle.

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1 2. Accidental bodily injury sustained outside this
2 state, but within the United States of America or its
3 territories or possessions or Canada, by the owner while
4 occupying the owner's motor vehicle.

5 3. Accidental bodily injury sustained by a relative of
6 the owner residing in the same household, under the
7 circumstances described in subparagraph 1. or subparagraph 2.,
8 provided the relative at the time of the accident is domiciled
9 in the owner's household and is not himself or herself the
10 owner of a motor vehicle with respect to which security is
11 required under ss. 627.730-627.7405.

12 4. Accidental bodily injury sustained in this state by
13 any other person while occupying the owner's motor vehicle or,
14 if a resident of this state, while not an occupant of a
15 self-propelled vehicle, if the injury is caused by physical
16 contact with such motor vehicle, provided the injured person
17 is not himself or herself:

18 a. The owner of a motor vehicle with respect to which
19 security is required under ss. 627.730-627.7405; or

20 b. Entitled to personal injury benefits from the
21 insurer of the owner or owners of such a motor vehicle.

22 (e) If two or more insurers are liable to pay personal
23 injury protection benefits for the same injury to any one
24 person, the maximum payable shall be as specified in
25 subsection (1), and any insurer paying the benefits shall be
26 entitled to recover from each of the other insurers an
27 equitable pro rata share of the benefits paid and expenses
28 incurred in processing the claim.

29 (f) Medical payments insurance, if available in a
30 policy of motor vehicle insurance, shall pay the portion of
31 any claim for personal injury protection medical benefits

1 which is otherwise covered but is not payable due to the
2 coinsurance provision of paragraph (1)(a), regardless of
3 whether the full amount of personal injury protection coverage
4 has been exhausted. The benefits shall not be payable for the
5 amount of any deductible which has been selected.

6 (g) It is a violation of the insurance code for an
7 insurer to fail to timely provide benefits as required by this
8 section with such frequency as to constitute a general
9 business practice.

10 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

14 Provides that personal injury protection benefits to be
15 paid by an insurer are overdue if not paid within 30 days
16 after the insurer has been furnished reasonable proof of
a covered loss and the amount of the loss.

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